

**United States Bankruptcy Court  
Central District of California  
Los Angeles  
Sheri Bluebond, Presiding  
Courtroom 1539 Calendar**

**Wednesday, September 6, 2023**

**Hearing Room 1539**

10:00 AM

**2:00-00000**

**Chapter**

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Judge Bluebond seeks to maintain a courtroom environment (both online and in person) in which all persons are treated with dignity and respect, irrespective of their gender identity, expression or preference. To that end, individuals appearing before the Court are invited to identify their preferred pronouns (e.g., he, she, they, etc.) and their preferred honorific (e.g., Mr., Miss, Ms., Mrs., Mx, M, etc.). Individuals may do so by advising the Courtroom Deputy or Judge prior to any appearance and/or, in the case of remote hearings, by providing this information in the person's screen name in ZoomGov.

Docket 0

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

- NONE LISTED -

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**2:21-11188 Glenroy Coachella, LLC**

**Chapter 7**

**#1.00** Chapter 7 Trustee's Motion for Entry of Order 1) Determining That Trustee Does Not Have to Respond to Non-Bankruptcy Court Subpoena for Failure to Comply with Barton Doctrine; Or In The Alternative; (2) Authorizing Trustee To Incur Administrative Expenses and to Use Estate Property to Respond to Non-Bankruptcy Court Subpoena

Docket 767

**Courtroom Deputy:**

**ZoomGov Appearance by:**

8/30/23 - Marsha Houston

8/30/23 - Christopher Rivas

**Tentative Ruling:**

Court rejects Lander's argument that 28 U.S.C. section 959 should be read as support for the notion that he can serve a subpoena on a bankruptcy trustee without first obtaining leave from the bankruptcy court to do so. Section 959 has nothing to do with the facts of this case, and, even if it did, it does not answer the question of whether anyone must seek leave of the bankruptcy court before taking action against the trustee.

Court also rejects the notion that it is useful to ask whether the automatic stay would bar the requested discovery. The Ninth Circuit BAP rejected this very argument in In re Media Group, 2006 Bankr. LEXIS 4842, \*15-16 at note 7 (Bankr. 9th Cir. 2006) ("We do not find this analysis particularly helpful. Filing a lawsuit against a non-debtor party, such as a trustee's attorney, may not be a violation of the automatic stay, but may very well be barred under Barton if leave is not first obtained"). The automatic stay and the Barton Doctrine are very different animals.

Although this Court agrees that it is not required to follow decisions of the Ninth Circuit BAP, it is generally this Court's practice to do so, and the Court finds no fault in/with the Court's reasoning in Media Group. It is helpful to

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**CONT... Glenroy Coachella, LLC**

**Chapter 7**

recall in this context that the Barton Doctrine does not bar all actions against a bankruptcy trustee. It only bars actions based on his/her conduct in connection with the administration of the bankruptcy estate. If a trustee, for example, were to cause a car accident while driving to court, the Barton Doctrine does not prevent him from being sued for the other party's personal injuries. The Barton Doctrine is intended to protect the bankruptcy court's exclusive jurisdiction over the administration of a bankruptcy estate, as fiduciaries that assist in this process should not have to be concerned about having any of their actions in connection with administration of a bankruptcy estate second-guessed by a nonbankruptcy forum.

Therefore, this Court is inclined to hold that the Barton Doctrine precludes third parties from obtaining discovery from a bankruptcy trustee in an action pending in another forum (or from seeking to compel compliance with a subpoena if the trustee refuses to comply) without first obtaining leave of the bankruptcy court. However, it may nevertheless be in a given case that a particular subpoena is problematic for reasons other than the Barton Doctrine. In the Media Group case itself, for example, the BAP found that the record was sufficient to support the bankruptcy court's finding that service of a subpoena on the trustee was an improper litigation tactic because it was designed to serve as a tool for investigating the trustee's administration of the bankruptcy estate.

Here, it may well be, as USRECH has asserted, that Lander's efforts constitute an improper collateral attack on orders of this court. The Court approved a compromise and sale of property to USRECH with orders that have become final. Court does not believe trustee should be required to respond to Lander's subpoena (and will therefore enjoin efforts to compel his compliance at this juncture) until it has had an opportunity to analyze and assess whether Lander is engaged in an improper effort to undermine the finality of its orders. However, it may not be necessary for this Court to perform this analysis. USRECH has moved or will be moving to quash the subpoena and has scheduled a hearing on that motion for October 30, 2023. As the outcome of that motion could moot the issue identified in this paragraph, Court will continue the hearing on this motion until after USRECH's motion to quash has been heard by the state court and enjoin enforcement of the subpoena as against the trustee in the interim.

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**CONT... Glenroy Coachella, LLC**

**Chapter 7**

**Debtor(s):**

Glenroy Coachella, LLC

Represented By  
Daniel J Weintraub  
Crystle Jane Lindsey  
James R Selth

**Movant(s):**

Richard A Marshack (TR)

Represented By  
Chad V Haes  
D Edward Hays  
Leonard M Shulman

Richard A Marshack (TR)

Represented By  
Chad V Haes  
D Edward Hays  
Leonard M Shulman

**Trustee(s):**

Richard A Marshack (TR)

Represented By  
Chad V Haes  
D Edward Hays  
Leonard M Shulman

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**2:21-13813 Black Cat Fashion, Inc.**

**Chapter 7**

**#2.00** Motion for Order Approving Settlement Agreement between (1) the Trustee; and  
(2) the Fahimian Parties

Docket 37

**Courtroom Deputy:**

- NONE LISTED -

**Tentative Ruling:**

Overrule objection. Grant motion. Approve compromise.

The Ninth Circuit has held that, in considering a proposed settlement, the court should consider these factors: (a) [t]he probability of success in the litigation; (b) the difficulties, if any, to be encountered in the matter of collection; (c) the complexity of the litigation involved, and the expense, inconvenience and delay necessarily attending it; (d) the paramount interest of the creditors and a proper deference to their reasonable views in the premises.

*In re Woodson*, 839 F.2d 610, 620 (9th Cir. 1988) (quoting *In re A & C Properties*, 784 F.2d 1377, 1381 (9th Cir. 1986) (citation omitted)).

In reviewing a proposed settlement, a court is not “to decide the numerous questions of law and fact . . . but rather to canvass the issues and see whether the settlement ‘fall[s] below the lowest point in the range of reasonableness.’” *In re W.T. Grant Co.*, 699 F.2d 599, 608 (2d Cir.1983), *cert. denied*, 464 U.S. 822, 104 S.Ct. 89, 78 L.Ed. 2d 97 (1983). A “mini-trial” on the merits of the underlying cause of action is not required and should not be undertaken. *In re Walsh Construction, Inc.*, 669 F.2d 1325, 1328 (9th Cir. 1982); *In re Blair*, 538 F.2d 849, 851-52 (9th Cir. 1976).

Objecting creditor appears to be of the view that the trustee is certain to prevail in litigation and that the defendants have (or at least one of them has) sufficient assets to satisfy any judgment that would be obtained, but these views are not well-founded. The result of any litigation is not free from doubt and would require significant expenditures of both time and money (the latter of which the trustee does not have).

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**CONT... Black Cat Fashion, Inc.**

**Chapter 7**

There is some evidence that the transferees made loans to the debtor, and satisfaction of an antecedent debt constitutes value in the context of a fraudulent transfer analysis. The estate would be required to incur significant legal expenses were it to litigate the claims that the trustee proposes to compromise, and the outcome of that litigation is far from certain.

Moreover, as the trustee explains in both the motion and the reply, the ability of the defendants to respond in damages is questionable. JAK's conclusion that any judgment could be satisfied by selling a house in Beverly Hills owned by one of the defendants overlooks the fact that that defendant is entitled to a large homestead exemption, which would significantly reduce any net proceeds that might otherwise remain from a forced sale of the property.

The Court is not in a position to modify the proposed compromise by increasing the amount to be paid by the defendants as part of the compromise. The court can only approve or disapprove the settlement, and it is far from clear that disapproval of the settlement would produce a better result for creditors. To the contrary, if the court does not approve the settlement, the most likely result is that the trustee would move to abandon the fraudulent transfer claims, in which event only the objecting creditor would stand to benefit from any recovery. If JAK genuinely believes that the claims to be compromised are worth substantially more than the \$35,000 that the trustee is to receive pursuant to the proposed compromise, it could offer to purchase these claims for a larger amount or to advance funds to the trustee to finance the litigation. To date, it has not done either of these.

Therefore, under the circumstances, the Court concurs in the trustee's business judgment that it would be in the best interests of creditors and this bankruptcy estate for the Court to approve the proposed compromise.

<b>Party Information</b>
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**Debtor(s):**

Black Cat Fashion, Inc.

Represented By  
James R Selth

**Movant(s):**

Peter J Mastan (TR)

Pro Se

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**CONT... Black Cat Fashion, Inc.**

**Chapter 7**

Peter J Mastan (TR)

Pro Se

**Trustee(s):**

Peter J Mastan (TR)

Pro Se



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**2:23-14607 Alvaro Carlos Velasquez**

**Chapter 11**

**#3.00** Order to Show Cause re: Dismissal, Conversion or Appointment of Chapter 11 Trustee for Small Business Debtor's Failure to file Required Documents re:

1) Statement of Operations

2) Cash Flow Statement

3) Balance Sheet

4) Tax Returns

5) and Section 1116(a)(B)

Docket 18

**Courtroom Deputy:**

**ZoomGov Appearance by:**

9/1/23 - Greg Campbell

**Tentative Ruling:**

Vacate OSC. Debtor now appears to be in compliance.

<b>Party Information</b>
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**Debtor(s):**

Alvaro Carlos Velasquez

Represented By  
Andrew S Bisom

**Trustee(s):**

Robert Paul Goe (TR)

Pro Se

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**2:23-14607 Alvaro Carlos Velasquez**

**Chapter 11**

**#4.00** Scheduling and Case Management Conference in a Chapter 11 Subchapter V Case

Docket 1

**Courtroom Deputy:**

**ZoomGov Appearance by:**

9/1/23 - Greg Campbell

**Tentative Ruling:**

Continue case status conference to a date shortly after debtor's deadline for filing plan so that court, secured creditor and chapter V trustee can review and comment on plan before it is sent out to creditors.

<b>Party Information</b>
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**Debtor(s):**

Alvaro Carlos Velasquez

Represented By  
Andrew S Bisom

**Movant(s):**

Alvaro Carlos Velasquez

Represented By  
Andrew S Bisom

**Trustee(s):**

Robert Paul Goe (TR)

Pro Se